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Merrill Lynch Capital Trust I,  
Merrill Lynch Capital Trust II,  
Merrill Lynch Capital Trust III and  
Merrill Lynch, Pierce, Fenner &  
Smith Incorporated

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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IN RE MERRILL LYNCH & CO., INC. : Master File No.:  
SECURITIES, DERIVATIVE AND ERISA : 07cv9633(LBS)(AJP)(DFE)  
LITIGATION :  
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This Document Relates to: :  
Securities Action, 07cv9633(LBS)(AJP)(DFE) :  
Derivative Action, 07cv9696(LBS)(AJP)(DFE) :  
ERISA Action, 07cv10268(LBS)(AJP)(DFE) :  
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**DECLARATION OF JAY B. KASNER  
IN SUPPORT OF THE MERRILL DEFENDANTS'  
MOTIONS TO DISMISS THE CONSOLIDATED AMENDED COMPLAINTS**

JAY B. KASNER, under penalty of perjury, declares as follows:

1. I am a member of the Bar of this Court and of the firm Skadden, Arps, Slate, Meagher & Flom LLP, attorneys for Defendants Merrill Lynch & Co., Inc., Merrill Lynch Capital Trust I, Merrill Lynch Capital Trust II, Merrill Lynch Capital Trust III and Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Defendants").

2. I submit this declaration in support of: (A) the Motions to Dismiss the Consolidated Amended Class Action Complaint in the Securities Action, 07cv9633(LBS)(AJP)(DFE) made by the Merrill Defendants, and defendants O'Neal, Fleming, Edwards and Fakahany; (B) all defendants' Motions to Dismiss the Consolidated Amended Shareholders' Derivative Complaint in the Derivative Action, 07cv9696(LBS)(AJP)(DFE); and (C) all defendants' Motion to Dismiss the Consolidated Amended Complaint for Violations of ERISA in the ERISA Action, 07cv10268(LBS)(AJP)(DFE) (collectively, the "Motions"); and to transmit to the Court true and correct copies of the following documents that this Court may consider in connection with its determination of the Motions:

<u>Exhibit A</u>	Excerpts from William W. Bartlett, <u>Mortgage-Backed Securities: Products, Analysis, Trading</u> (1989), 396-98.
<u>Exhibit B</u>	<u>CSI: Credit Crunch</u> , Economist, Oct. 18, 2007.
<u>Exhibit C</u>	Randall Dodd, <u>Subprime: Tentacles of a Crisis</u> , Fin. & Development, (IMF quarterly magazine) Dec. 2007.
<u>Exhibit D</u>	Excerpts from Frank J. Fabozzi, <u>Credit Enhancements for Nonagency MBS Products</u> , in <u>The Handbook of Mortgage-Backed Securities</u> (Frank J. Fabozzi, ed., 6th ed. 2006), 113-22.
<u>Exhibit E</u>	Statement of John Finnegan before the House Committee on Oversight and Government Reform, Mar. 7, 2008.
<u>Exhibit F</u>	Excerpts from Laurie S. Goodman et al., <u>Subprime Mortgage Credit Derivatives</u> (Frank J. Fabozzi, ed., 2008), 10, 145-49, 156-60, 269-70.
<u>Exhibit G</u>	Alan Greenspan, <u>The Roots of the Mortgage Crisis</u> , Wall St. J., Dec. 12, 2007.
<u>Exhibit H</u>	Alan Greenspan, <u>We Will Never Have a Perfect Model of Risk</u> , Fin. Times (London), Mar. 16, 2008.

- Exhibit I Jian Hu, Moody's Investors Servs., Structured Finance CDO Ratings Surveillance Brief: September 2007, (Oct. 23, 2007).
- Exhibit J Ben Logan, The ABX Indices: A Pricing Conundrum, Credit, May 1, 2008.
- Exhibit K Yalman Onaran and Jody Shenn, Bear Stearns Turns to Marano for \$1.6 Billion Bailout, Bloomberg, June 27, 2007.
- Exhibit L Susan Pulliam, Deals with Hedge Funds May be Helping Merrill Delay Mortgage Losses, Wall St. J., Nov. 2, 2007 (as corrected on Nov. 26, 2007).
- Exhibit M Susan Pulliam et al, Merrill Upped Ante as Boom in Mortgage Bonds Fizzled, Wall St. J., Apr. 16, 2008.
- Exhibit N Allison Pyburn, ML Leads Banner CDO Year, Asset Securitization Report, Jan. 8, 2007.
- Exhibit O Olivia Thetgyi, AIG Steps Back from ABS CDO Super Seniors, Securitization News, Apr. 3, 2006.
- Exhibit P Merrill Lynch Stock Trading Data, September 1, 2006 through March 31, 2008.
- Exhibit Q Bear Stearns Stock Trading Data, September 1, 2006 through March 31, 2008.
- Exhibit R Citigroup Stock Trading Data, September 1, 2006 through March 31, 2008.
- Exhibit S Lehman Brothers Stock Trading Data, September 1, 2006 through March 31, 2008.
- Exhibit T Morgan Stanley Stock Trading Data, September 1, 2006 through March 31, 2008.
- Exhibit U UBS Stock Trading Data, September 1, 2006 through March 31, 2008.
- Exhibit V Excerpts from Merrill Lynch Annual Report on Form 10-K for the year ending December 29, 2006, filed with the United States Securities and Exchange Commission (the "SEC") on February 26, 2007.

- Exhibit W Excerpts from Merrill Lynch Annual Report on Form 10-K for the year ending December 28, 2007, filed with the SEC on February 25, 2008.
- Exhibit X Excerpts from Merrill Lynch Quarterly Report on Form 10-Q for the quarter ending March 30, 2007, filed with the SEC on May 7, 2007.
- Exhibit Y Excerpts from Merrill Lynch Quarterly Report on Form 10-Q for the quarter ending June 29, 2007, filed with the SEC on August 3, 2007.
- Exhibit Z Excerpts from Merrill Lynch Quarterly Report on Form 10-Q for the quarter ending September 28, 2007, filed with the SEC on November 7, 2007.
- Exhibit AA Excerpts from Merrill Lynch Quarterly Report of Form 10-Q for the quarter ending March 28, 2008, filed with the SEC on May 6, 2008.
- Exhibit BB Merrill Lynch Current Report, dated and filed with the SEC on Form 8-K on September 17, 2004.
- Exhibit CC Merrill Lynch Press Release dated October 5, 2007, filed with the SEC on Form 8-K on October 5, 2007.
- Exhibit DD Excerpts from Merrill Lynch Press Release dated October 24, 2007, filed with the SEC on Form 8-K on October 24, 2007.
- Exhibit EE Excerpts from Merrill Lynch Current Report, dated and filed with the SEC on Form 8-K on October 30, 2007.
- Exhibit FF Excerpts from transcript of Merrill Lynch Earnings Conference Call for the quarter ending June 29, 2007, held on July 17, 2007.
- Exhibit GG Excerpts from Merrill Lynch Definitive Proxy Statement for 1987, filed with the SEC on Form 14A on March 23, 1987.
- Exhibit HH Excerpts from Merrill Lynch Definitive Proxy Statement for 2005, filed with the SEC on Form 14A on March 15, 2005.
- Exhibit II Excerpts from Merrill Lynch Definitive Proxy Statement for 2006, filed with the SEC on Form 14A on March 10, 2006.
- Exhibit JJ Excerpts from Merrill Lynch Definitive Proxy Statement for 2007, filed with the SEC on Form 14A on March 16, 2007.

- Exhibit KK Excerpts from Merrill Lynch Definitive Proxy Statement for 2008, filed with the SEC on Form 14A on March 14, 2008.
- Exhibit LL E. Stanley O'Neal, Letter to Fellow Shareholders and Clients, Merrill Lynch 2006 Annual Report, February 27, 2007.
- Exhibit MM Excerpts from Merrill Lynch Registration Statement, filed with the SEC on Form S-4 on May 7, 2007.
- Exhibit NN Merrill Press Release, Merrill Lynch Announces Agreement to Acquire First Franklin from National City Corporation, issued on September 5, 2006.
- Exhibit OO Jeffrey N. Edwards Statements of Changes in Beneficial Ownership, filed with the SEC on Form 4 on January 24, 2007 and February 2, 2007.
- Exhibit PP Ahmass L. Fakahany Statements of Changes in Beneficial Ownership, both filed with the SEC on Form 4 on February 6, 2007.
- Exhibit QQ Gregory J. Fleming Statements of Changes in Beneficial Ownership, filed with the SEC on Form 4 on January 26, February 2, February 8, May 18 and October 24 of 2005; January 25, February 23 and August 8 of 2006; and January 24, February 2, February 8 and September 25 of 2007.
- Exhibit RR E. Stanley O'Neal Statements of Changes in Beneficial Ownership, filed with the SEC on Form 4 on March 1, 2005, February 24, 2006 and February 6, 2007.
- Exhibit SS Excerpts from Merrill Lynch Restated Certificate of Incorporation dated May 3, 2001.
- Exhibit TT Merrill Press Release, Merrill Reports Record Net Revenues, Net Earnings and Diluted EPS for Full Year 2006, issued on January 18, 2007.
- Exhibit UU Merrill Press Release, Merrill Lynch Names Ahmass Fakahany and Greg Fleming Co-Presidents, issued on May 16, 2007.
- Exhibit VV Susan Roth Katzke & Ross Seiden, Merrill Lynch, Credit Suisse Equity Research (Feb. 2, 2007).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 18, 2008.



JAY B. KASNER